



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIRCREST MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ORL OL

Introduction

The landlord seeks an order that the tenants comply with the rules of the manufactured home park, pursuant to section 55(3) of the *Manufactured Home Park Tenancy Act* ("Act"). In addition, they seek to recover the cost of the filing fee under section 65.

Attending the hearing on December 13, 2021 at 1:30 PM were the landlord's property manager and the landlord's legal counsel. Neither tenant attended the hearing, which ended at 1:47 PM.

Based on the evidence provided, including undisputed evidence that the tenant was served with the Notice of Dispute Resolution Proceeding, and later with the evidence package, both by registered mail and by process server, it is my finding that the tenants were served and therefore notified of today's hearing in accordance with the Act.

Issues

1. Is the landlord entitled to an order under section 55(3) of the Act?
2. Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

Based on the written *Manufactured Home Site Tenancy Agreement*, a copy of which was submitted into evidence, the tenancy began on November 25, 2009. The tenancy agreement was signed by the tenants.

In addition to the tenancy agreement, there are four pages of park rules (the "Rules"); the Rules were in evidence before me. On page two of the Rules there is a clause which states that "NO COMMERCIAL VEHICLES, MOTOR HOMES, CAMPERS, CAMPING TRAILORS, MOTOR CYCLES NOT PERMITTED PARKING IN THE PARK." Below this statement, there is a further clause stating that "Written permission is needed for more than two (2) vehicles" On page four of the Rules there are the signatures of the tenants and of the park manager.

Also submitted into evidence are two photographs of signage that is at the entrance to the park. The third line down on a large white sign states, in uppercase bold text: "NO RV's". An additional number of photographs depict what appears to be either an RV or a camper in the driveway of the site.

Submissions by counsel, supported by the park manager's testimony, describe the tenants' ongoing breach of the Rules by having the camper or RV on the site. This ongoing breach commenced in June of 2021. In addition, the tenants' ongoing breach of the Rules is by having in excess of two permitted vehicles without written permission.

The park manager confirmed, through counsel, that no written permission has ever been given to the tenants to have the RV or more than two vehicles. While the reason for the tenants having the RV is unknown, it is suspected that additional individuals not party to the tenancy agreement might be residing on the property. Last, despite asking the tenants to remove the RV, the tenant (Mr. H.) purportedly called the park manager an "asshole."

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Application for Order under Section 55(3) of the Act

Section 55(3) of the Act states that

The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement.

In this dispute, the landlord has proven that the tenants, by having signed both the tenancy agreement and the Rules, are legally obligated to comply with the Rules. Section 32(1) of the Act permits a landlord of a manufactured home park to establish rules for governing the operation of the manufactured home park.

There is no evidence before me to find that the Rules are inconsistent with the Act or the regulations (section 32(2) of the Act), nor that they are in any way inconsistent with any of the terms of the tenancy agreement (section 32(4) of the Act).

What there is evidence of, however, is the tenants' flagrant and wilful breach of the Rules by (1) parking a motor home or camper on the site, and by (2) parking more than two vehicles on the site. The tenants agreed to the Rules, then breached the Rules, then called the park manager an "asshole" for asking them to comply with the Rules.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for relief pursuant to section 55(3) of the Act.

IT IS SO ORDERED: the tenants must comply with the Rules, and the tenants must remove all motor homes and campers from the manufactured home site. Further, the tenants are hereby ordered to remove all vehicles, regardless of vehicle type, in excess of the two vehicles as permitted by the Rules.

The tenants must comply with this order within two (2) days of receiving this decision. Should the tenants fail to comply with this order as set out above, the landlord may end the tenancy by giving notice to end the tenancy pursuant to [section 40\(1\)\(k\)](#) of the Act ("tenant's failure to comply with an order of the director").

Claim for Filing Fee

Section 65 of the Act permits the arbitrator to order payment of a fee by one party to another party. In this dispute, the landlord seeks recovery of the application for dispute resolution filing fee of \$100.00. As the landlord was successful in their application, it is my finding that they are entitled to recover the cost of filing this application. To that end, pursuant to section 65(1) of the Act, the tenants must pay the landlord \$100.00 within 15 days of the tenants receiving a copy of this decision.

Should the tenants fail to pay this amount as ordered, the landlord may file and enforce the monetary order (issued in conjunction with this decision) in the Provincial Court of British Columbia.

Conclusion

The landlord's application is granted, with the specific order set out above.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: December 13, 2021

Residential Tenancy Branch